
SENATE BILL 6383

State of Washington 60th Legislature 2008 Regular Session

By Senators Weinstein, Kauffman, Tom, McAuliffe, and Kline

Read first time 01/16/08. Referred to Committee on Consumer Protection & Housing.

1 AN ACT Relating to unlawful detainer actions involving distressed
2 properties under the residential landlord-tenant act; amending RCW
3 59.18.030; and adding a new section to chapter 59.18 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 59.18.030 and 1998 c 276 s 1 are each amended to read
6 as follows:

7 As used in this chapter:

8 (1) "Distressed property" means real property that is (a) the
9 primary residence of the owner and (b) in foreclosure or in danger of
10 foreclosure.

11 (2) "Distressed property conveyance" means a transaction in which:
12 A foreclosed homeowner transfers an interest in the distressed property
13 to a distressed property purchaser; the distressed property purchaser
14 allows the foreclosed homeowner to occupy the distressed property; and
15 the distressed property purchaser or a person acting in participation
16 with the distressed property purchaser conveys or promises to convey
17 the distressed property to the foreclosed homeowner or provides the
18 foreclosed homeowner with an option to purchase the distressed property
19 at a later date.

1 (3) "Distressed property purchaser" means any person who acquires
2 an interest in distressed property under a distressed property
3 conveyance. "Distressed property purchaser" includes a person who acts
4 in joint venture or joint enterprise with one or more distressed
5 property purchasers in a distressed property conveyance. A federal or
6 state chartered bank, savings bank, thrift, or credit union is not a
7 distressed property purchaser.

8 (4) " Dwelling unit" is a structure or that part of a structure
9 which is used as a home, residence, or sleeping place by one person or
10 by two or more persons maintaining a common household, including but
11 not limited to single family residences and units of multiplexes,
12 apartment buildings, and mobile homes.

13 ~~((+2))~~ (5) "Foreclosed homeowner" means an owner of distressed
14 property.

15 (6) "In danger of foreclosure" means any of the following:

16 (a) The homeowner has defaulted on the mortgage and, under the
17 terms of the mortgage, the mortgagee has the right to accelerate full
18 payment of the mortgage and repossess, sell, or cause to be sold the
19 property;

20 (b) The homeowner is at least thirty days delinquent on any loan
21 that is secured by the property; or

22 (c) The homeowner has a good faith belief that he or she is likely
23 to default on the mortgage within the upcoming four months due to a
24 lack of funds, and the homeowner has reported this belief to:

25 (i) The mortgagee;

26 (ii) A person licensed or required to be licensed under chapter
27 19.134 RCW;

28 (iii) A person licensed or required to be licensed under chapter
29 19.146 RCW;

30 (iv) A person licensed or required to be licensed under chapter
31 18.85 RCW;

32 (v) An attorney-at-law;

33 (vi) A mortgage counselor or other credit counselor licensed or
34 certified by any federal, state, or local agency; or

35 (vii) Any other party to a distressed property conveyance.

36 (7) "Landlord" means the owner, lessor, or sublessor of the
37 dwelling unit or the property of which it is a part, and in addition
38 means any person designated as representative of the landlord.

1 ~~((3))~~ (8) "Mortgage" is used in the general sense and includes
2 all instruments, including deeds of trust, that are used to secure an
3 obligation by an interest in real property.

4 (9) "Person" means an individual, group of individuals,
5 corporation, government, or governmental agency, business trust,
6 estate, trust, partnership, or association, two or more persons having
7 a joint or common interest, or any other legal or commercial entity.

8 ~~((4))~~ (10) "Owner" means one or more persons, jointly or
9 severally, in whom is vested:

10 (a) All or any part of the legal title to property; or

11 (b) All or part of the beneficial ownership, and a right to present
12 use and enjoyment of the property.

13 ~~((5))~~ (11) "Premises" means a dwelling unit, appurtenances
14 thereto, grounds, and facilities held out for the use of tenants
15 generally and any other area or facility which is held out for use by
16 the tenant.

17 ~~((6))~~ (12) "Rental agreement" means all agreements which
18 establish or modify the terms, conditions, rules, regulations, or any
19 other provisions concerning the use and occupancy of a dwelling unit.

20 ~~((7))~~ (13) A "single family residence" is a structure maintained
21 and used as a single dwelling unit. Notwithstanding that a dwelling
22 unit shares one or more walls with another dwelling unit, it shall be
23 deemed a single family residence if it has direct access to a street
24 and shares neither heating facilities nor hot water equipment, nor any
25 other essential facility or service, with any other dwelling unit.

26 ~~((8))~~ (14) A "tenant" is any person who is entitled to occupy a
27 dwelling unit primarily for living or dwelling purposes under a rental
28 agreement.

29 ~~((9))~~ (15) "Reasonable attorney's fees", where authorized in this
30 chapter, means an amount to be determined including the following
31 factors: The time and labor required, the novelty and difficulty of
32 the questions involved, the skill requisite to perform the legal
33 service properly, the fee customarily charged in the locality for
34 similar legal services, the amount involved and the results obtained,
35 and the experience, reputation and ability of the lawyer or lawyers
36 performing the services.

37 ~~((10))~~ (16) "Gang" means a group that: (a) Consists of three or

1 more persons; (b) has identifiable leadership or an identifiable name,
2 sign, or symbol; and (c) on an ongoing basis, regularly conspires and
3 acts in concert mainly for criminal purposes.

4 ~~((11))~~ (17) "Gang-related activity" means any activity that
5 occurs within the gang or advances a gang purpose.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 59.18 RCW
7 to read as follows:

8 In an unlawful detainer action involving a distressed property:

9 (1) The plaintiff shall disclose to the court whether the defendant
10 previously held title to the distressed property, and explain how the
11 plaintiff came to acquire title;

12 (2) A defendant who previously held title to the distressed
13 property shall not be required to escrow any money pending trial when
14 a material question of fact exists as to whether the plaintiff acquired
15 title from the defendant directly or indirectly through a distressed
16 property conveyance;

17 (3) There must be both an automatic stay of the action and a
18 consolidation of the action with a pending or subsequent quiet title
19 action when a defendant claims that the plaintiff acquired title to the
20 distressed property through a distressed property conveyance.

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